

### **REMARKS/ARGUMENTS**

#### **Claim Status – Request for Reconsideration**

Reconsideration of this application is requested. The claims presented for reconsideration are claims 35, 36, 38-52, 57-75, 79-83, 85, 86 and 89-94.

Independent claims 35, 51, 75 and 83 have been amended to indicate that the forward compartment includes a wall, the rotatable brush is positioned to propel debris up the wall, and that the cleaning strip assembly is housed within an underside of the wall. This overall arrangement is more fully described in the specification at paragraphs 0036, 0037 and 0044, and shown in detail in Fig. 2. Accordingly, this amendment introduces no new matter into the claims.

#### **Double Patenting**

Claims 35-36, 38-52, 56-75, 79-83, 85-86 and 89-94 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-35 of U.S. Patent No. 7,013,521 (the '521 patent). This rejection is traversed and reconsideration is requested.

The claims of this invention are generally to a surface cleaning apparatus that includes a rotatable brush and cleaning strip assembly. The brush is positioned in a forward compartment such that the brush is capable of propelling debris up a wall of the compartment. The cleaning strip assembly is housed within an underside of the wall, and is capable of pivoting between a cleaning position and elevated position. This type of arrangement between rotatable brush, wall and cleaning strip assembly provides an advantage of more efficiently moving debris, through contact of the cleaning strip, into the path of the rotating brush during operation. The rotating brush then contacts the debris and propels it up the forward compartment wall and allows the debris to be collected in the cleaning apparatus.

Claims 1 and 23 are the only independent claims in the '521 patent. Those claims are generally directed to a surface cleaning apparatus, with each claim requiring that the apparatus include a handle movable and rotatable in a specified direction, and a collar that prevents rotation of the handle in a specified position. None of the independent claims of this application include

such a handle and collar arrangement. Moreover, none of the independent claims of the '521 patent include the combination of rotatable brush, wall and cleaning assembly that is present in each of the independent claims of this application. Therefore, the claims of this application and the '521 application include different structural elements, and these particular elements perform different functions. No one claim in this application is broader than any one claim in the '521 application and vice versa. Accordingly, rejecting the claims of this application on the basis of obviousness-type double patenting is in error, and removal of the rejection is requested.

#### **Claim Rejections – 35 USC § 102**

Claims 75, 79-82 and 94 were rejected under 35 USC § 102(b) as being anticipated by Japanese Patent Publication No. 58-041214 (the Japanese publication). This rejection is traversed and reconsideration requested.

As already noted, this invention is directed to a surface cleaning apparatus having a rotatable brush and cleaning strip assembly, with the brush being positioned so that debris is propelled up a wall of a forward compartment, and the cleaning strip assembly being housed within an underside of the wall capable of pivoting between a cleaning position and elevated position. This type of arrangement provides an advantage of more efficiently moving debris, through contact of the cleaning strip, into the path of the rotating brush during operation, thereby propelling the debris up the forward compartment wall and into the cleaning apparatus.

The Japanese publication discloses surface cleaning apparatus that includes a rotatable brush (4), and positions that brush by a wall (7e) of the forward compartment. The surface cleaning apparatus also includes a separate elongate support (11) that has attached to an underside inclined piles (14) and contact members (12) that cause the elongate support and attached inclined piles to move and deposit additional debris in a separate compartment from where debris is swept by the movement of the rotatable brush.

The surface cleaning apparatus described in the Japanese publication differs from the claimed invention in that the Japanese cleaning apparatus does not include a cleaning strip assembly that is housed within an underside of the forward wall, with the cleaning strip assembly being capable of pivoting between a cleaning position and elevated position. There is simply no

type of strip assembly associated with the forward wall and brush that can work to enhance efficiency of the brush to sweep debris over the wall and into the cleaning apparatus. Thus, there is no structure disclosed in the Japanese reference that suggests that of the claimed invention. Accordingly, the Japanese reference fails to anticipate or make obvious applicant's claimed invention.

### **Conclusion**

Having demonstrated that the cited references fail to disclose or suggest the invention as claimed, and all other formal issues having now been fully addressed, this application is in condition for allowance. Accordingly, applicant requests early and favorable reconsideration in the form of a Notice of Allowance.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated, since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response. Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 09-0528 (Docket #:E081 117628).

Respectfully submitted,

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Richard D. Jordan  
Registration No. 33,519

Womble Carlyle Sandridge & Rice, PLLC  
P. O. Box 7037  
Atlanta, GA 30357-0037  
Direct Phone: (703) 394-2262  
Fax: (703) 918-2259  
E-Mail: rjordan@wCSR.com